

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Docket No: 05-CR-10204-GAO

UNITED STATES OF AMERICA)
v.) DEFENDANT'S MOTION TO SUPPRESS
PAUL HICKS) EVIDENCE SEIZED PURSUANT TO AN
) UNLAWFUL SEARCH WARRANT AND
) REQUEST FOR HEARING

)

Pursuant to Fed. R. Cri. P. 12(b)(3)(C) & 47, the Defendant, Paul Hicks, moves this court to issue an order, consistent with the Fourth and Fourteenth Amendments of the United States Constitution, suppressing from evidence any and all items seized from 15 Cabot Street, Brockton, Massachusetts, on January 20, 2005, pursuant to "no-knock" search warrant 050120KML-2 issued by an assistant clerk magistrate of the Brockton District Court. See Illinois v. Gates, 462 U.S. 213 (1983).

As reasons therefor:

1. The search warrant was issued based upon an insufficient showing of probable cause to believe that a crime had been committed by the Defendant, Mr. Hicks. See United States v. Feliz, 182 F.3d 82, 86 (1st Cir. 1999); United States v. Ribeiro, 397 F.3d 43, 48 (1st cir. 2005).
2. The search warrant was issued based upon an insufficient showing that evidence of a criminal offense would be found at the place authorized to be searched, 15 Cabot Street, Brockton, Massachusetts. See Id.
3. A hearing is required to address the contested issues of facts and law pertinent to the resolution of this motion,

particularly regarding the clerk magistrate's issuance of a search warrant although the affidavit supporting the warrant application failed to provide a substantial basis for concluding that a search of 15 Cabot Street, Brockton, Massachusetts, would uncover evidence of criminal wrongdoing. See Illinois v. Gates, 462 U.S. 213, 236 (1983).

By his Attorney,

/S/Joseph F. Krowski, Jr., Esquire
JOSEPH F. KROWSKI, JR., ESQUIRE
30 Cottage Street
Brockton, MA 02301
(508) 584-2555
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Date: March 6, 2006

CERTIFICATE OF SERVICE

I, Joseph F. Krowski, Jr., Esquire, hereby certify that I have this 6th day of March, 2006, served a copy of the Defendant's Motion to Suppress Evidence Seized Pursuant to an Unlawful Search Warrant and Request for Hearing as well as Defendant's supporting memorandum and affidavit on John A. Capin, AUSA, U.S. Attorney's Office, 1 Courthouse Way, Suite 9200, Boston, MA 02210, by first class mail postage prepaid.

/S/Joseph F. Krowski, Jr., Esquire
JOSEPH F. KROWSKI, JR., ESQUIRE